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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,298	09/26/2001	Rodrigo Jimenez	J3553(C)	9910

201 7590 08/29/2003

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER

NGO, LIEN M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 08/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/964,298

Applicant(s)

JIMENEZ ET AL.

Examiner

LIEN TM NGO

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 & 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because terms "is described", "said" and "means" should avoid in the abstract. Correction is required.
See MPEP § 608.01(b).

Claim Objections

3. Claim 5 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim.

See MPEP § 608.01(n). Accordingly, the claim 5 has not been further treated on the merits.

4. Claims 1 and 10 objected to because of the following informalities: in claim 1, line 1, "that" should be deleted; in claim 1, lines 6 and 7, and claim 10, line 8, "finger and thumb" should be --a finger and a thumb--. Appropriate correction is required.

5. Claim 11 is objected to because of the following informalities: claim 11 should be rewritten in an independent form including limitations of claim 1, because it is improper a method claim depending from a product claim. Appropriate correction is required.

Drawings

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cross section symbolic of plastic of the moulded sheath as set forth in the claims must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the cross section symbolic of plastic of the moulded sheath as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is indefinite because it fails to point out what is included or excluded by the claim language "a packaged ... as represented in figures 4 to 7". This claim is an omnibus type claim.

10. Claims 1-4, 6-8, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 10, it is unclear what are processing or having "a means" and "cutaway sections"? the bottle or the sheath?

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-4, 6-8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farricielli (Des. 327,431).

Farricielli discloses, in fig. 1 and 3, a package product comprising a container and a cover sheath, the sheath being closed at the top and open at the bottom, a means (protrusions see in fig. 5) for releasably holding the container, cutaway

sections in opposite sides that enable the container to be grasped between a finger and thumb and pulled from the sheath.

Farricielli does not disclose the sheath being plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Farricielli cover sheath from plastic, since it has been held to be within the generally skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Ileshin, 125 USPQ 416.

In regard to claim 2, the Farricielli sheath comprised ribs on the outer surface therefor they provide a higher coefficient of friction than the outer surface of the bottle.

In regard to claims 3 and 4, Farricielli sheath in figs. 1 and 2 can hold the container firmly by frictional interactions between the container and the sheath, and comprising an internal projection.

In regard to claim 6, it would be obvious to make the Farricielli sheath being asymmetric shape to correspond an asymmetric shape of the container, since such modification would have involves a mere change in the shape of a component. A change in size, shape, dimension, etc. is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

In regard to claim 10 and 11, Farricielli disclose an invention comprising limitations as claimed, therefore, the Farricielli invention is capable of performing the method as claimed.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eberhard, Pych, Gagnon, Uhl et al., Ben-Uri, and Dailley et al. teach container cover sheaths.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 703-305-0294. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 703-308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Lien Ngo

August 27, 2203

A handwritten signature in black ink, appearing to be 'Lien Ngo', with a stylized, wavy line extending from the end.